SUPREME COURT OF THE UNITED STATES.

No. ~~75~~ 27.

RICHARD M. SCOTT, PLAINTIFF IN ERROR,

VERSUS

EZRA LUNT'S ADMINISTRATOR, &c.

IN ERROR TO THE CIRCUIT COURT UNITED STATES FOR THE COUNTY OF ALEXANDRIA, D. C.

INDEX.

	Original.	Print.
Citation,	1	1
Writ of error,	3	2
Writ,	5	3
Nar,	5	3
Demurrer,	8	5
overruled,	8	5
2d and 3d pleas of defendant—Replication and issue,	8	5
Verdict for defendant—Judgment,	9	6
Motion for new trial overruled,	9	6
Plaintiff's first bill of exceptions,	9	6
Testimony of Jonathan Scholfield,	10	6
Barton Lynch,	10	7
Plaintiff's prayer for instructions,	11	7
Defendant's do. do.,	12	8
Second bill of exceptions,	12	8
Deed, General George Washington to Ezra Lunt,	12	8
Deed, General George Washington's executors to Henry S. Turner,	15	10
Deed, Henry S. Turner to Richard M. Scott,	18	12
Clerk's certificate,	22	15

DISTRICT OF COLUMBIA, to wit:

To Ezra Lunt, administrator with the will annexed of Ezra Lunt, deceased, greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, to be holden at the city of Washington, being the present seat of the National Government, on the 2nd Monday in January

next, pursuant to a writ of error filed in the clerk's office of the United States' circuit court of the District of Columbia for the county of Alexandria, wherein Richard M. Scott is plaintiff and you are defendant, to shew cause, if any there be, why the judgment rendered against the said Richard M. Scott, as in the said writ of error mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness the Honorable John Marshall, Chief Justice of the United States, this 14th day of December, 1830.

W. CRANCH.

DISTRICT OF COLUMBIA, COUNTY OF ALEXANDRIA, sct.

Charles Scott, deputy marshal, personally appeared before me, a justice of the peace for the county aforesaid, and made oath that he delivered a true copy of the within citation to Ezra Lunt in person, on the 27th day of December, 1830. Given under my hand this 27th day of December, 1830.

ADAM LYNN.

UNITED STATES OF AMERICA, DISTRICT OF COLUMBIA, to wit:

The President of the United States of America, to the Judges of the United States' Circuit Court of the District of Columbia, greeting:

Because in the record and proceedings, and also the rendering of the judgment, of a plea which is in the said court for the county of Alexandria before you or some of you, between Richard M. Scott, plaintiff, and Ezra Lunt, administrator with the will annexed of Ezra Lunt, deceased, in a plea of covenant, manifest error hath happened, to the great damage of the said Richard M. Scott, as by his complaint appears, and we being willing that error, if any hath been, should be duly corrected, and full and speedy justice done the parties aforesaid in this behalf, do command you, if judgment be therein given, that then, under your seal, distinctly and openly, you send the record and proceedings, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same at Washington, in the District of Columbia, being the present seat of the National Government, on the first Monday in January next, that the record and proceedings aforesaid being seen and inspected, the said Supreme Court may cause further to be done therein, what of right and according to the laws and customs of the United States should be done.

Witness the Honorable John Marshall, Chief Justice of the United States, this 14th day of December, eighteen hundred and thirty.

EDM. I. LEE, *C. C.*

DISTRICT OF COLUMBIA, to wit:

Pleas before the Honorable the Judges of the United States' Circuit Court of the District of Columbia, for the County of Alexandria, at the court-house in the town of Alexandria, the ninth day of November, 1830.

RICHARD M. SCOTT, plaintiff,
against
EZRA LUNT, administrator of Ezra Lunt, deceased, defendant.

Be it remembered, that heretofore, to wit, on the 10th day of November, 1824, came the plaintiff aforesaid and sued out of the office of the clerk of

269

the said court a writ of capias ad respondendum, against the said defendant, which is in the words and figures following:

DISTRICT OF COLUMBIA, to wit:

The United States of America to the Marshal of the District of Columbia, greeting:

We command you that you take Ezra Lunt, administrator with the will annexed of Ezra Lunt, deceased, if he be found within the county of Alexandria in your said district, and him safely keep, so that you have his body before the honorable the judges of the United States' circuit court of the District of Columbia, for the county of Alexandria, at the court-house in the town of Alexandria, at the next court, to answer Richard M. Scott of a plea of covenant broken, damage one thousand dollars; and have then there this writ.

Witness the Honorable William Cranch, Chief Judge of the circuit court of the District of Columbia, this 10th day of November, 1824.

EDM. I. LEE, *C. C.*, [SEAL.]

Upon which said writ the marshal made the following return:

Executed.

C. SCOTT, *D. M.*,
For T. Ringgold, Marshal.

And at another day, to wit, at the rules held in the clerk's office of the said court for the month of September, in the year 1825, came the plaintiff by Thomas Swann, Esq., his attorney, and filed there a certain bill against the said defendant, which is in the words and figures following:

COUNTY OF ALEXANDRIA, to wit:

Richard M. Scott, assignee of Henry S. Turner, who was assignee of William A. Washington, George Steptoe Washington, Samuel Washington, George Washington Parke Custis, Bushrod Washington, and Lawrence Lewis, executors of General George Washington, deceased, complains of Ezra Lunt, administrator with the will annexed of Ezra Lunt, deceased, in custody, &c., of a plea of covenant broken. For that, whereas the said said Ezra Lunt did, in his lifetime, that is to say, on the eighth day of August, in the year of our Lord one thousand seven hundred and ninety-nine, at the county aforesaid, by his certain deed of indenture made between General George Washington and Martha his wife, of the one part, and him, the said Ezra, of the other part, which said deed, sealed with the seal of the said Ezra, the said plaintiff brings here into court, the date whereof is in the same day and year aforesaid, did covenant, promise, and grant, unto the said George Washington, his heirs and assigns, the annual rent of seventy-three dollars, issuing out of certain premises situate in the town of Alexandria, demised by him, the said George Washington and Martha his wife, in and by the indenture aforesaid, to him, the said Ezra Lunt; and the said Ezra did further covenant, promise, and grant, to and with the said George Washington, his heirs and assigns, that he, the said Ezra, his heirs and assigns, would yearly and every year well and truly pay the aforesaid sum of seventy-three dollars to the said George Washington, his heirs and assigns, on the day and at the time appointed for the payment thereof, as before mentioned in the said indenture, that is to say, on the eighth day of

August yearly, and every year for ever thereafter. And whereas, the said William A. Washington, George Steptoe Washington, Samuel Washington, George Washington Parke Custis, Bushrod Washington, and Lawrence (Lewis) *Washington*, executors of the said General George Washington as aforesaid, by their indenture bearing date the 25th day of August, one thousand eight hundred and four, at the county aforesaid, did assign and transfer the said annual rent of seventy-three dollars to Henry S. Turner, and the said Henry afterwards, that is to say, on the fifth day of February, in the year 1808, by his certain deed of assignment, duly sealed and delivered, did assign and transfer the said annual rent to him the said plaintiff, of which said assignment the said Ezra, in his lifetime, that is to say, on the day and year last mentioned, had notice, by means whereof the said plaintiff became entitled to demand and have of the said Ezra, in his lifetime, and of the defendant, after his death, the said annual rent of seventy-three dollars; and the said plaintiff, in fact saith, that after the death of the said Ezra there became due and owing to him, from the defendant, as administrator aforesaid, for the rents aforesaid, from the 8th day of August, 1812, to the 8th day of August, 1824, the sum of twelve hundred and forty-one dollars, which said sum of twelve hundred and forty-one dollars the said defendant, since the death of the said Ezra Lunt, has altogether failed to pay to the said plaintiff; and so the said plaintiff saith, that the said defendant, as administrator aforesaid, hath broke the covenant aforesaid, whereby the said plaintiff hath been injured, and hath sustained damage to the value of one thousand dollars, and therefore he brings suit.

SWANN, *for the plaintiff.*

Pledges, &c., J. Doe, R. Roe.

And the defendant being arrested and not appearing, on the motion of the plaintiff, by his attorney, it is ordered that judgment be entered for the plaintiff against the defendant, for what damages the plaintiff hath sustained by reason of the non-performance of the promise in the declaration mentioned; to be levied of the goods and chattels of the said decedent in the hands of the defendant to be administered, unless the said defendant shall appear and plead to issue at the next rules.

And at the rules held in the clerk's office of the said court for the month of October, in the year 1825, the defendant still failing to appear, on the motion of the plaintiff, by his attorney, it is ordered, that the last order made against the defendant in this cause be confirmed, and that the plaintiff's damages be ascertained by a jury at the next term.

And at a court continued and held for the district and county aforesaid, the 12th day of December, 1825, came the plaintiff aforesaid, by Thomas Swann, Esq., his attorney and the said defendant, by Robert I. Taylor, Esq., his attorney, comes and defends the wrong and injury, when, &c., and on his motion the writ of inquiry awarded in this cause is set aside; and the said defendant says, that he has not broken the covenants in the deed in the declaration mentioned, and of this he puts himself upon the country, and the plaintiff likewise. Therefore let, &c.

At another day, to wit, at a court continued and held for the district and county aforesaid, the 4th day of May, 1826, this cause was continued.

And at a court continued and held for the district and county aforesaid, the 10th day of April, 1827, came the defendant, by his attorney, and the plaintiff, although solemnly called, came not, nor is his suit further prosecuted. Therefore, it is considered by the court, that the said defendant go

hence without day, and recover of the plaintiff three dollars damages, according to law, and also his costs by him about his defence in this behalf expended.

At a court continued and held for the district and county aforesaid, the 20th day of April, 1827, on the motion of the plaintiff, the last order made in this cause is set aside, and the cause is reinstated and continued.

At another day, to wit, at a court continued and held for the district and county aforesaid, the 18th day of April, 1828, the said defendant, by Robert I. Taylor, Esq., his attorney, comes and defends the wrong and injury, when, where, &c., and as the court shall award, and saith, that the said plaintiff ought not to have his action against him, for that the said declaration, and the matters therein contained, are not sufficient in law for the said plaintiff to have and maintain his said action against the said defendant; to which declaration, he, the said defendant, is not obliged, nor by the law of the land is in any manner bound to answer, and this he is ready to verify; wherefore, for default of a sufficient declaration of the said plaintiff, the said defendant demands judgment, and that the said plaintiff be barred from having the action aforesaid against him, &c.

And the plaintiff joins in said demurrer.

And thereupon the matters of law arising upon the defendant's demurrer to the plaintiff's declaration being argued, it seems to the court that the said declaration, and the matters therein contained, are sufficient in law for the plaintiff to have and maintain his action against the defendant, and this cause is continued.

And at a court continued and held for the district and county aforesaid, the 10th day of November, 1828, this cause was continued.

At a court continued and held for the district and county aforesaid, the 23d day of November, 1829, on the defendant's motion, general commissions are awarded to take depositions, and cause continued.

And at another day, to wit, at a court continued and held for the said district and county, the 23d day of April, 1830, came the parties aforesaid, by their attorneys, and the said defendant saith, that he hath fully administered all and singular the goods and chattels, rights and credits, of the said testator.

And the said defendant further defends the wrong and injury, when, &c., and for further plea, by leave of the court in this behalf first had and obtained, the said defendant (asking oyer of the said deed of demise from the said George Washington to the said Ezra, and the same being read to him in these words, &c.,) says, that before the days in the said declaration specified for the payment of the said rent by the plaintiff, under the said deed claimed, that is to say, on the day of in the year the said plaintiff, under and by virtue of the said condition of re-entry in the said deed contained, did enter on the said premises thereby demised for non-payment of certain rent then in arrear and unpaid, and held and occupied the same as vested in him by the said entry, as his absolute estate, and this the defendant is ready to verify, &c., wherefore, &c.

R. I. TAYLOR, *P. Q.*

To which said second and third pleas the plaintiff replies generally, and issue is thereupon joined.

At a court continued and held for the district and county aforesaid, the 8th day of November, 1830, came the parties aforesaid, by their attorneys, and thereupon came a jury, to wit, Presley Jacobs, William A. Williams,

William Veitch, John Adam, Thomas Sanford, Samuel Lindsay, John H. Crease, James Bloxham, Joseph Miller, William Stabler, George Drinker, and Ebenezer Bacon, who being sworn and affirmed well and truly to try the issue joined, by consent of parties, and with the assent of the court, are continued until to-morrow.

And now here, at this day, to wit, at a court continued and held for the district and county aforesaid, the ninth day of November aforesaid, in the year 1830, by consent of parties, the plea of fully administered is withdrawn; and the jury sworn to try the issue in this cause appeared in court and returned the following verdict, "We of the jury find for the defendant." Therefore, it is considered by the court, that the plaintiff take nothing by his bill, but for his false clamor be in mercy, &c., and that the said defendant go thereof without day, and recover of the plaintiff his costs by him about his defence expended. The plaintiff tendered two bills of exceptions, which are signed, sealed, and ordered to be enrolled.

And at a court continued and held for the district and county aforesaid, the eleventh day of November, 1830, the plaintiff moved the court to set aside the verdict of the jury and the judgments of the court in this case, and to grant a new trial.

At another day, to wit, at a court continued and held for the said district and county aforesaid, the third day of December, 1830, the motion for a new trial having been considered by the court, the same is overruled.

First Bill of Exceptions.

Upon the trial of this cause, the plaintiff, to support the issue joined on his part, gave in evidence to the jury the deed from General George Washington to the testator of the defendant, which deed is in these words, (see page 8:) The plaintiff gave in evidence to the jury a deed from the executors of the said General George Washington to Henry S. Turner, and a deed from Henry S. Turner to himself, conveying to him, the said plaintiff, in fee, the ground rent of $73, created by the aforesaid deed from General Washington to the said Ezra Lunt, which deeds are in these words, (see pages 10, 12.)

The defendant gave evidence to prove, that upon the settlement of the administration account by the defendant upon the estate of his testator, Ezra Lunt, there was a balance in the hands of the administrator of $149, which he, the defendant, under the order of the orphans' court, distributed among the next of kin of the deceased in the year 1812; no demand having been made on him, as administrator as aforesaid, for said rent previously to this suit.

The defendant then gave in evidence to the jury a deed from the aforesaid original lessee, Ezra Lunt and Eliza his wife, to James Boyd, and a deed from the said James Boyd to Jonathan Scholfield; by which said deeds it is admitted that the premises, upon which the said rent was charged, had been duly conveyed to him, the said Jonathan Scholfield. The insertion of these deeds in this statement is, by consent, waived.

The defendant then offered the said Jonathan Scholfield as witness in the said cause, to prove that the said plaintiff had made a re-entry upon the premises in question. The said Scholfield proved that he had held the premises in question from the time he obtained a deed for them, that is to say, from the 4th of November, 1817, to the latter end of the year 1820. That, towards the close of the year 1820, the plaintiff pressed him for the rents then due upon the premises, and threatened to re-enter upon them if the

rent was not paid. That, in the year 1819, the said plaintiff and himself had a conversation in relation to the said rent, in which the said plaintiff threatened to re-enter upon the premises for the non-payment; that the said Scholfield had, on his part, in the said conversation, declared his total inability to make payment, and that, at the plaintiff's request, he agreed that the plaintiff should take possession of the premises and do what he pleased, in consequence of the non-payment of said rent. That in the end of the year 1820, he received a letter from the plaintiff on the same subject, and that the letter from him to the plaintiff, now produced by the latter, was written by him in answer thereto. That, after this, he understood that the plaintiff had re-entered on and taken upon himself the management of the premises, and he supposed that he meant no longer to look to him for the rents, and, in fact, that he had re-entered upon the premises. That from the year 1819 to the present time, he has had nothing to do with the premises, nor has any claim been made against him for rent. It is admitted, that during all this time, that is to say, from January, 1821, to the present moment, the said Jonathan Scholfield is wholly insolvent.

The defendant then examined a witness, one Barton Lynch, who gave evidence to prove that about the beginning of the year 1821, the plaintiff engaged him to labor for him at $73 a year, and the plaintiff informed him that he was entitled to a ground rent upon the premises in question of $73; that if he would collect this rent, he might do so, and apply it to his, the plaintiff's, credit, on account of his labor; and that he might, so far as the plaintiff had any concern in the premises, do whatsoever he pleased towards renting and making the most of the property; that he did not mean to re-enter upon the property; that he immediately turned his attention to the property, and found two families living upon it. That, under an authority from the plaintiff, he entered on and repaired the premises to a pretty considerable extent, and rented the property out, from time to time, for nearly three years, and received for the rents about $140, which was paid over to the plaintiff, or rather, accounted for by him to the plaintiff in the settlement of his account for his labor done for the plaintiff.

This evidence being given to the jury, with a view of shewing that a re-entry had been made by the plaintiff upon the premises in question, the counsel for the plaintiff prayed the court to instruct the jury, that the said evidence was not competent to prove that the said plaintiff had re-entered upon the said premises, so as to vest in him a title to the said premises, and to bar him from the claim which he has here made, and that it was not even competent for the jury to infer from the said evidence that such re-entry had been made; which instruction the court refused to give, being of opinion that the said evidence was competent to be left to the jury for their consideration, upon the question whether a re-entry had been made by the plaintiff, according to the terms of the clause in the aforesaid original deed from the said Washington to the said Ezra Lunt.

The court having refused to instruct the jury as aforesaid, the counsel for the plaintiff prayed the court to instruct the jury, that the time at which the re-entry ought to be made depended upon the lease given in evidence by the plaintiff, as aforesaid, and could not be varied by the evidence given, as aforesaid, by the defendant; and that, if they found that a re-entry was made, that it ought to be such as would conform to the deed; and that a mere occupation of the premises by a landlord or his agent, or the receipt of rents of the premises, did not, in themselves, amount to a re-entry; which instruction the court also refused to give, being of opinion that it was com-

petent for the said Scholfield to waive any of the formalities required by law for his benefit.

The defendant then prayed the court to instruct the jury, that if the jury should be satisfied, by the said evidence, that the said Richard M. Scott did enter and take possession of the premises under and in virtue of the clause of re-entry in the deed from General Washington to the testator of the defendant, it is competent for the jury to infer from the evidence aforesaid, that the said Jonathan Scholfield assented to the said re-entry; and that, if they believe that he did so assent, and that he yet continues to assent to the said re-entry, and that the plaintiff has never since offered to re-instate the said Scholfield in the possession of the said premises, then that the said plaintiff is bound by the said entry, and cannot recover against the same the rent which became due subsequently thereto. Which instruction the court gave as prayed; whereupon the plaintiff, by his counsel, excepts to the refusal of the court to give the instruction so as aforesaid prayed by the plaintiff, and also the instruction so given as aforesaid at the prayer of the defendant; and this, his bill of exceptions, is signed, sealed, and ordered to be enrolled, this 9th day of November, 1830.

W. CRANCH, [SEAL.]
JAMES S. MORSELL, [SEAL.]

Second Bill of Exceptions.

After the witness, Jonathan Scholfield, had given his testimony, as stated in the first bill of exceptions, the counsel for the plaintiff objected to the competency of the said witness, stating that he was an interested witness. The court overruled the objection, and declared that the said witness was a competent witness. To which opinion of the court the counsel for the plaintiff excepts, and prays that his exception may be sealed, which is done accordingly, this 9th November, 1830.

W. CRANCH, [SEAL.]
JAMES S. MORSELL, [SEAL.]

Deed from General George Washington to Ezra Lunt.

This indenture, made this eighth day of August, in the year of our Lord one thousand seven hundred and ninety-nine, between General George Washington, of the county of Fairfax and commonwealth of Virginia, and Martha his wife, of the one part, and Ezra Lunt, of the town of Alexandria, of the other part, witnesseth, that the said General George Washington, for and in consideration of the rents and covenants herein after reserved and expressed, on the part and behalf of the said Ezra Lunt, to be paid, done, and performed, has granted, bargained and sold, aliened and confirmed, and by these presents does grant, bargain and sell, alien and confirm, unto the said Ezra Lunt, his heirs and assigns for ever, a certain piece or parcel of ground, situate, lying and being in the town of Alexandria; beginning on Prince street, adjoining the house built by Hugh Barr; thence along said Prince street westwardly twenty-four feet four inches; thence northwardly, parallel to Hugh Barr's lot, eighty-three feet to an alley; thence, along said alley, twenty-four feet four inches to Hugh Barr's lot; and from thence parallel with that to the beginning. To have and to hold the said piece or parcel of ground, with the appurtenances thereto belonging, unto the said Ezra Lunt, his heirs and assigns, he, the said Ezra Lunt, his heirs and assigns, yielding and paying for the same on the eighth day of August nex

272

ensuing, and on the eighth day of August yearly, and every year for ever hereafter, unto the said General Washington, his heirs and assigns, the sum of seventy-three dollars, current money of Virginia; and the said Ezra Lunt, his heirs and assigns, does hereby grant unto General George Washington, his heirs and assigns, the said annual rent of seventy-three dollars, issuing out of the said hereby demised premises; and the said Ezra Lunt, his heirs and assigns, do hereby covenant, promise and grant, to and with the said General George Washington, his heirs and assigns, that he, the said Ezra Lunt, his heirs and assigns, will yearly, and every year for ever, well and truly pay the aforesaid sum of seventy-three dollars, unto the said General George Washington, his heirs and assigns, on the day and at the time appointed for payment, as aforesaid; and also, that it shall and may be lawful for the said General George Washington, his heirs and assigns, at any and at all times after the said rent shall become due, (if the same be not paid when demanded,) to enter upon the said hereby granted piece of land, and distress and sale make of the goods and chattels which may be thereupon found, to pay and satisfy such rent or rents, or part of a rent, as may remain due and in arrear. And it is further agreed, covenanted, conditioned, and provided, by the said Ezra Lunt, his heirs and assigns, to and with the said General George Washington, his heirs and assigns, that if the said yearly rent of seventy-three dollars, or any part thereof, be behind or unpaid for the space of thirty days next after the same became due and payable, and sufficient goods and chattels of the said Ezra Lunt, his heirs and assigns, shall not be found upon the said hereby granted premises to pay and satisfy the same, that then it shall and may be lawful for the said General George Washington, his heirs and assigns, in and upon the said hereby granted piece of land and premises to re-enter, and the same to hold again, re-possess and enjoy, as if this present indenture had never been made, any thing herein contained to the contrary thereof in anywise notwithstanding. And the said General George Washington, his heirs, executors and administrators, do grant and covenant to and with the said Ezra Lunt, in manner following, that is to say: That the said General George Washington and his heirs, the said Ezra Lunt, his heirs and assigns, paying the rent herein reserved, and performing, fulfilling, and keeping the covenants and agreements on their part to be performed and done, the said hereby granted piece of land, and every part thereof, unto the said Ezra Lunt, his heirs and assigns, against the said General George Washington, his heirs, and all and every other person or persons, shall and will warrant and for ever defend by these presents.

In witness whereof, the parties to these presents have hereunto interchangeably set their hands and affixed their seals, the day and year first before written.

GEORGE WASHINGTON, [SEAL.]
MARTHA WASHINGTON, [SEAL.]
EZRA LUNT. [SEAL.]

Sealed and delivered in presence of
TOBIAS LEAR,
GEO. W. P. CUSTIS,
JAS. ANDERSON,
A. RAWLINS,
ROBERT GORDON,
JAS. ANDERSON.

At a court of hustings held for the town of Alexandria, the 5th day of May, 1800, this deed from George Washington, Esq., and Martha his wife, to Ezra Lunt, was proved to be the act and deed of the said George Washington, by the oaths of Tobias Lear and James Anderson, witnesses thereto; and the said Ezra Lunt acknowledged the same to be his act and deed, and ordered to be certified. And at a United States' circuit court of the District of Columbia, continued and held for the county of Alexandria, the 9th day of December, 1803, this deed having been heretofore proved, by the oath of Tobias Lear and James Anderson, to be the act and deed of the said George Washington, is, on motion, ordered to be recorded.

Teste, G. DENEALE, *C. C.*

Deed from the executors of General Washington to Henry S. Turner.

This indenture, made this twenty-fifth day of August, in the year of our Lord one thousand eight hundred and four, between William Augustine Washington, Bushrod Washington, George Steptoe Washington, Lawrence Lewis, and George Washington Parke Custis, executors of the last will and testament of General George Washington, deceased, of the one part, and Henry Smith Turner, late of the county of Westmoreland, of the other part. Whereas the said General George Washington, by his certain indenture, bearing date the eighth day of August, one thousand seven hundred and ninety-nine, did grant, bargain, sell, and convey unto Ezra Lunt, of the town of Alexandria, his heirs and assigns, for and in consideration of the rents and covenants therein reserved and expressed, on the part and behalf of the said Ezra Lunt, to be paid, done, and performed, a certain piece or parcel of ground, situate, lying, and being in the town of Alexandria; beginning on Prince street, adjoining the house built by Hugh Barr; thence along Prince street westerly twenty-four feet four inches; thence northwardly, parallel to Hugh Barr's lot, eighty-three feet to an alley; thence, along said alley, twenty-four feet four inches to Hugh Barr's lot; and from thence parallel with that to the beginning.

To have and to hold the said piece or parcel of ground, with the appurtenances thereto belonging, unto the said Ezra Lunt, his heirs and assigns, he, the said Ezra Lunt, his heirs and assigns, yielding and paying for the same, on the eighth day of August then next ensuing, and on the eighth day of August yearly, and every year thereafter, unto the aforesaid General Washington, his heirs and assigns, the sum of seventy three dollars, current money of Virginia; and the said Ezra Lunt, his heirs and assigns, did, by the said indenture, grant unto the said General Washington, his heirs and assigns, the said annual rent of seventy-three dollars, issuing out of the said demised premises, with powers of distress and re-entry in case the said annual rent should not be paid according to the stipulations in said indenture, as by the said indenture will more fully and at large appear: Now this indenture witnesseth, that the said William Augustine Washington, Bushrod Washington, George Steptoe Washington, Samuel Washington, Lawrence Lewis, and George Washington Parke Custis, executors of the last will and testament of the said General George Washington, deceased, for and in consideration of the sum of one dollar, to them in hand paid by the said Henry Smith Turner, at and before the sealing and delivering of these presents, the receipt whereof they do hereby acknowledge, and thereof do acquit and discharge the said Henry Smith Turner, his executors and administrators,

have granted, bargained and sold, aliened and confirmed, and by these presents do grant, bargain and sell, alien and confirm, unto the said Henry Smith Turner, his heirs and assigns, the aforesaid annual rent of seventy-three dollars, issuing out of and charged on the aforesaid piece or parcel of ground, herein before described; which said rent the said William Augustine Washington, Bushrod Washington, George Steptoe Washington, Samuel Washington, Lawrence Lewis, and George Washington Parke Custis, executors of the last will and testament of the said General George Washington, deceased, by virtue of the powers in them vested by the last will and testament of the said General George Washington, deceased, did, on the seventh day of June, 1803, sell to George Steptoe Washington, who sold the same to the said Henry Smith Turner, an equal, valid, and satisfactory distribution of the aforesaid rent among the devisees of the said General George Washington, deceased, being found impracticable. To have and to hold the said annual rent of seventy-three dollars, unto the said Henry Smith Turner, his heirs and assigns, to the only proper use and behoof of the said Henry Smith Turner, his heirs and assigns for ever.

In witness whereof, the said William Augustine Washington, Bushrod Washington, George Steptoe Washington, Samuel Washington, Lawrence Lewis, and George Washington Parke Custis, executors of the last will and testament of General George Washington, deceased, have hereunto set their hands and affixed their seals the day and year first before written.

WILLIAM AUGT. WASHINGTON, [SEAL.]
BUSHROD WASHINGTON, [SEAL.]
GEORGE WASHINGTON, [SEAL.]
SAMUEL WASHINGTON, [SEAL.]
LAWRENCE LEWIS, [SEAL.]
GEORGE W. P. CUSTIS, [SEAL.]

Sealed and delivered in presence of
MARIA MANN PAGE,
JOHN TAYLOE LOMAX,
BUSHROD WASHINGTON, Jr.,
JOHN T. FROBEL,
SAMUEL CAMUELL,
JOSEPH FLORANCE,
ROBERT LEWIS, as to Mr. Custis and George S. Washington.
ROGER FARELL, for G. Washington.

At a court held for Fairfax county, the 18th day of February, 1805, this deed from William Augustine Washington, Bushrod Washington, George S. Washington, Samuel Washington, Lawrence Lewis, and George W. P. Custis, executors of George Washington, deceased, to Henry S. Turner, was proved to be the act and deed of the said William A. Washington, Bushrod Washington, Samuel Washington, and Lawrence Lewis, by the oaths of Bushrod Washington, jr., John T. Frobel, and Joseph Florance, and to be the act and deed of the said George S. Washington, by the oaths of Bushrod Washington, jr., Robert Lewis, and Joseph Florance, and to be the act and deed of the said George W. P. Custis, by the oaths of Joseph Florance and Robert Lewis, witnesses thereto, and ordered to be certified. And at a court held for the said county, the 17th June, 1805, the same was acknowledged, by the said Bushrod Washington and Lawrence Lewis, to be their act and deed, and also as attorneys, in fact, for the said William A.

Washington, George S. Washington, Samuel Washington, and George W. P. Custis, to be their act and deed, and ordered to be certified to the circuit court of the District of Columbia, held for the county of Alexandria.

In testimony that the above is a true copy from the record of proceedings of the county court of Fairfax, in the commonwealth of Virginia, I, William Moss, clerk of the said court, have hereunto set my hand and affixed the seal of the said county, this 22d day of June, 1805, and in the 29th year of this commonwealth.

WM. MOSS, *C. F. C.*, [SEAL.]

At an United States' circuit court of the District of Columbia, continued and held by adjournment, for the county of Alexandria, the 10th day of May, 1806, this deed from William Augustine Washington, Bushrod Washington, George S. Washington, Samuel Washington, Lawrence Lewis, and George W. P. Custis, executors of General George Washington, deceased, to Henry Smith Turner, having been duly proved before the county court of Fairfax, in the commonwealth of Virginia, and certified by William Moss, clerk of the said court, under the seal of his office, is, on motion, ordered to be recorded.

Test, G. DENEALE, *C. C.*

Deed from Henry S. Turner to Richard M. Scott.

This indenture, made this twenty-fifth day of February, in the year of our Lord one thousand eight hundred and eight, between Henry Smith Turner and Catharine his wife, of the county of Jefferson, in the state of Virginia, of the one part, and Richard Marshall Scott, of the county of Fairfax, in the state aforesaid, of the other part. Whereas George Washington, Esq. did, by his indenture, bearing date the eighth day of August, one thousand seven hundred and ninety-nine, grant unto Ezra Lunt, his heirs and assigns for ever, a piece of ground lying upon the north side of Prince street and to the westward of Pitt street, in the town of Alexandria, in the District of Columbia, and bounded as followeth, to wit: beginning upon Prince street at the line of the ground granted to Hugh Barr, and immediately joining his dwelling house, and running thence westwardly with Prince street and binding thereupon, twenty-four feet four inches; thence northwardly, parallel with Barr's line and Pitt street, eighty-three feet to an alley; thence eastwardly, with the line of the said alley and parallel to Prince street, twenty-four feet four inches; thence with a straight line to the beginning; he, the said Ezra Lunt, his heirs and assigns, paying for the same unto him, the said George Washington, his heirs and assigns, yearly, and every year for ever, upon the eighth day of August in each year, a rent of seventy-three dollars, current money of Virginia; by which indenture there is a provision made for levying the said rent as often as it shall become payable, if not paid upon demand, by the distress and sale of the goods and chattels found upon the said ground; and a further provision for re entering in and upon the said ground and ejecting therefrom the said Ezra Lunt, his heirs and assigns, if the said rent should at any time thereafter be in arrear a certain number of days, and goods and chattels could not be found upon the ground whereupon to levy the rent so in arrear by distress and sale, which rent, and the powers of distress and re-entry, were, by William Augustine Washington, Bushrod Washington, George Steptoe Washington, Lawrence Lewis, and George Washington Parke Custis, exe-

cutors of the last will and testament of the said George Washington, conveyed and transferred unto him, the said Henry Smith Turner, his heirs and assigns, by an indenture bearing date the fifth day of August, one thousand eight hundred and four: Now this indenture witnesseth, that the said Henry Smith Turner and Catharine his wife, for and in consideration of six hundred dollars, to him, the said Henry S. Turner, in hand paid by the said Richard Marshall Scott, at or before the sealing and delivery of these presents, the receipt whereof he, the said Henry Smith Turner, doth hereby acknowledge, and thereof and of every part and parcel thereof doth acquit, release, and discharge him, the said Richard Marshall Scott, his heirs, executors and administrators, by these presents, have given, granted, bargained, sold, aliened, assigned, transferred, set over, and confirmed, and by these presents do give, grant, bargain, sell, alien, assign, transfer, set over, and confirm unto him, the said Richard Marshall Scott, his heirs and assigns for ever, that rent of seventy-three dollars, issuing out of that piece of ground lying upon the north side of Prince street, and to the westward of Pitt street, in the town of Alexandria, granted by the said George Washington to the said Ezra Lunt, and by his executors conveyed and transferred unto him, the said Henry Smith Turner, and the powers of distress and re-entry, and all deeds and instruments of writing which relates to the reservation and transfer of the said rent, and every covenant, clause, and stipulation, contained in them or any of them. To have and to hold all and singular the said premises, with their appurtenances, unto him, the said Richard Marshall Scott, his heirs and assigns, to the only proper use and behoof of him, the said Richard Marshall Scott, his heirs and assigns for ever. And the said Henry Smith Turner doth for himself, his heirs, executors and administrators, covenant, grant and agree, to and with the said Richard Marshall Scott, his heirs and assigns, that he, the said Henry Smith Turner, and his heirs, will, at any time hereafter, upon the request and at the cost and charge of him, the said Richard Marshall Scott, his heirs and assigns, execute and acknowledge any further lawful act and deed, for the more certain assuring and conveying all and singular the said premises unto him, the said Richard Marshall Scott, his heirs and assigns, as by him, the said Richard Marshall Scott, his heirs and assigns, his, their, or any of their counsel learned in the law, shall or may be advised or required. And lastly, that he, the said Henry Smith Turner and his heirs, the said rent and all and singular the said premises unto him, the said Richard Marshall Scott, his heirs and assigns, against the claim and demand of him, the said Henry Smith Turner, and his heirs, and all and every other person or persons whatsoever, shall and will warrant and for ever defend by these presents.

In witness whereof, the said Henry Smith Turner and Catharine his wife have hereunto set their hands and seals, the day and year first herein before mentioned.

H. S. TURNER, [SEAL.]
CATHARINE TURNER, [SEAL.]

Sealed and delivered in presence of
ANT. CHS. CAZENOVE,
N. HERBERT,
WILLIAM GOVERMAN,
JOHN SUTTON,
EDM. I. LEE.

Received of Richard Marshall Scott six hundred dollars, current money of the United States, the consideration within mentioned.

H. S. TURNER.

Witness,
JOHN SUTTON,
WILLIAM GOVERMAN,
EDM. I. LEE.

At an United States' circuit court of the District of Columbia, continued and held for the county of Alexandria, the 7th day of July, 1808, this deed from Henry S. Turner and Catharine his wife, to Richard M. Scott, was proved by the oaths of Noblet Herbert, William Goverman, and Edmund I. Lee, to be the act and deed of the said Henry S. Turner, which, together with a commission and return for the privy examination of Catharine Turner, wife of the said Henry S., are ordered to be recorded.

Test, G. DENEALE, *C. C.*

DISTRICT OF COLUMBIA, COUNTY OF ALEXANDRIA, set.

The United States of America to George Gilpin, Abraham Faw, and Cuthbert Powell, gentlemen, Justices of the County of Alexandria, greeting:

Whereas Henry S. Turner and Catharine his wife, by their certain indenture of bargain and sale, bearing date the twenty-fifth day of February, one thousand eight hundred and eight, have sold and conveyed unto Richard Marshall Scott a rent charge of seventy-three dollars, issuing out of a piece of ground, with the appurtenances, situate, lying and being upon the north side of Prince street and to the westward of Pitt street, in the said town and county of Alexandria; and whereas the said Catharine cannot conveniently travel to our United States' circuit court of the District of Columbia and county of Alexandria, to make acknowledgment of the said conveyance, therefore, we do give unto you, or any two or more of you, power to receive the acknowledgment, which the said Catharine shall be willing to make before you, of the conveyance aforesaid, contained in the said indenture, which is hereunto annexed; and we do, therefore, desire you, or any two or more of you, personally to go to the said Catharine and receive her acknowledgment of the same, and examine her privily and apart from the said Henry Smith Turner, her husband, whether she doth the same freely and voluntarily, without his persuasions or threats, and whether she be willing the said indenture, together with this commission, shall be recorded in our said court; and when you have received her acknowledgment and examined her as aforesaid, that you distinctly and openly certify us thereof in our said court, under your hands and seals, sending then there the said indenture and this writ. Witness the Honorable William Cranch, chief judge of our said court, this twenty-fifth day of February, 1808.

G. DENEALE, *C. C.*

ALEXANDRIA COUNTY, to wit:

In obedience to the within commission, we did examine the said Catharine privily and apart from the said Henry Smith, her husband, who declared that she executed the said indenture freely and voluntarily, without his persuasions or threats, and that she was willing the same, together with this commission, should be recorded in the said court. Given under our

hands and seals, this 7th day of March, one thousand eight hundred and eight.

GEORGE GILPIN, [SEAL.]
A. FAW, [SEAL.]

DISTRICT OF COLUMBIA, COUNTY OF ALEXANDRIA, set.

I, Edmund I. Lee, clerk of the United States' circuit court of the District of Columbia for the county of Alexandria, do hereby certify, that the foregoing is a true transcript of the record of the proceedings in the case of Richard M. Scott against Ezra Lunt's administrator, lately depending in said court. In testimony whereof, I have hereunto set my hand and affixed the seal of the said court, this seventh day of January, 1831.

EDM. I. LEE, *C. C.*, [SEAL.]